

EXHIBIT 2

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Clerk of the Superior Court
*** Electronically Filed ***
C. Cuellar, Deputy
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[] Representing Self, Without an Attorney
(If Attorney) State Bar Number: 009771, Issuing State: AZ

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

Hidaly Marquez, a parent for
Tatiana Colmenero, a minor
Plaintiff(s),

Case No. CV2022-006394

v.
Yadira Duran Gutierrez, et al.
Defendant(s).

SUMMONS

To: Yadira Duran Gutierrez

WARNING: THIS AN OFFICIAL DOCUMENT FROM THE COURT THAT AFFECTS YOUR RIGHTS. READ THIS SUMMONS CAREFULLY. IF YOU DO NOT UNDERSTAND IT, CONTACT AN ATTORNEY FOR LEGAL ADVICE.

1. A lawsuit has been filed against you. A copy of the lawsuit and other court papers were served on you with this Summons.
2. If you do not want a judgment taken against you without your input, you must file an Answer in writing with the Court, and you must pay the required filing fee. To file your Answer, take or send the papers to Clerk of the Superior Court, 201 W. Jefferson, Phoenix, Arizona 85003 or electronically file your Answer through one of Arizona's approved electronic filing systems at <http://www.azcourts.gov/efilinginformation>. Mail a copy of the Answer to the other party, the Plaintiff, at the address listed on the top of this Summons.
Note: If you do not file electronically you will not have electronic access to the documents in this case.
3. If this Summons and the other court papers were served on you within the State of Arizona, your Answer must be filed within TWENTY (20) CALENDAR DAYS from the date of service, not counting the day of service. If this Summons and the other court papers were served on you outside the State of Arizona, your Answer must be filed within THIRTY (30) CALENDAR DAYS from the date of service, not counting the day of service.

Requests for reasonable accommodation for persons with disabilities must be made to the court by parties at least 3 working days in advance of a scheduled court proceeding.

GIVEN under my hand and the Seal of the Superior Court of the State of Arizona in and for the County of MARICOPA

SIGNED AND SEALED this Date: *May 19, 2022*

JEFF FINE
Clerk of Superior Court

By: *CECILIA CUELLAR*
Deputy Clerk



Requests for an interpreter for persons with limited English proficiency must be made to the division assigned to the case by the party needing the interpreter and/or translator or his/her counsel at least ten (10) judicial days in advance of a scheduled court proceeding.

If you would like legal advice from a lawyer, contact Lawyer Referral Service at 602-257-4434 or <https://maricopabar.org>. Sponsored by the Maricopa County Bar Association.

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IN AND FOR THE COUNTY OF MARICOPA

Hidaly Marquez, a parent for
Tatiana Colmenero, a minor
Plaintiff(s),
v.
Yadira Duran Gutierrez; et al.
Defendant(s).

Case No. CV2022-006394

SUMMONS

To: John Doe Duran Gutierrez

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Attorneys for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

TATIANA COLMENERO, a minor, by and
 through HIDALY MARQUEZ, as natural
 mother and guardian of TATIANN
 COLMENERO, a minor,

Plaintiff,

vs.

YADIRA DURAN GUTIERREZ and JOHN
 DOE DURAN GUTIERREZ, wife and
 husband; JOHN DOES I-X; JANE DOES I-
 X; BLACK CORPORATIONS I-X; and
 WHITE PARTNERSHIPS I-X,

Defendant.

NO. CV2022-006394

COMPLAINT

(Tort, Non-Motor Vehicle – Tier 2)

Plaintiff Tatiana Colmenero, a minor, by and through Hidaly Marquez as her natural
 guardian and mother, through undersigned counsel, for her Complaint alleges as follows:

PARTIES, JURISDICTION & VENUE

1. Plaintiff is now, and was, at all times relevant hereto, a resident of San Diego
 County, California.
2. Upon information and belief, and at all times relevant hereto, Defendants Yadira
 Duran Gutierrez and John Doe Duran Gutierrez, wife and husband (hereinafter referred to as
 “Defendants”), are residents of Maricopa County, Arizona.
3. All acts complained of herein occurred in Maricopa County, Arizona.

1 11. At that time and place, Defendants were hosting a family lunch which included six
2 adult family members.

3 12. After the guests had all arrived at Defendants' residence, mother Hidaly Marquez
4 departed to go to the store for lunch supplies and charged Defendant Yadira Duran Gutierrez
5 with the care of her daughter, Plaintiff Tatiana Colmenero, to which she agreed.
6

7 13. While Hidaly Marquez was away, Plaintiff Tatiana Colmenero, age 10, and
8 Defendant Gutierrez's grandson, age 8, were permitted to exit the rear sliding door of the
9 residence and gain access to the swimming pool unsupervised.
10

11 14. Upon information and belief, all adults at the residence, including Defendants,
12 remained in the kitchen area or other locations within the home.
13

14 15. Upon information and belief, the minor children were not supervised by
15 Defendants or any adult at any time after gaining access to the exterior of the premises or inside
16 the pool area.

17 16. After accessing the swimming pool area, the minor children jumped in the
18 swimming pool and began to play. Because no adults were present, the minor children were
19 also able to access a large three-gallon water jug that had been left out.
20

21 17. The minor grandson filled the jug with pool water and dumped it on Plaintiff
22 Tatiana Colmenero's head. This activity continued for some time where the minor grandson
23 would repeatedly fill the jug and try to catch Tatiana in the pool to dump water on her from
24 above, without adult supervision or intervention of any kind by Defendants.
25
26
27

1 18. As the minor children remained unsupervised by the pool, the minor grandson
2 began running toward Tatiana with the jug full of water and slipped next to the edge of the pool.
3 The full three-gallon jug dropped from his hands landing directly on Tatiana's right thumb/hand
4 which was resting on the concrete pool ledge, resulting in a serious, permanent and disfiguring
5 injury to Tatiana's right thumb which was crushed and partially amputated.

7 19. Following the injury, because no adults were present including Defendants, the
8 minor children began to scream and attempted to rush inside for help.

10 20. Because the safety gate was now closed, the minor children became locked within
11 the pool area, unable to regain access to the residence on their own.

12 21. The minor children remained outside the gate screaming for help for a period of
13 time before Defendants eventually came to assist.

15 22. Plaintiff Tatiana Colmenero was rushed to the Emergency Department at Phoenix
16 Children's Hospital by family members, along with Tatiana's amputated thumb piece.

17 23. Due to the injuries, Plaintiff incurred substantial medical expenses, and may
18 continue to incur medical expenses. Plaintiff sustained special, compensatory and hedonic
19 damages in amounts to be proven at trial. By way of example, the minor Plaintiff has been
20 unable to return to favorite activities such as volleyball and basketball because of the permanent
21 nerve damage caused the accident.

23 **FIRST CLAIM FOR RELIEF**
24 (Liability—Premises Liability)

25 24. Plaintiff incorporates all other paragraphs as though fully set forth herein.
26
27

1 25. In Arizona, a property or landowner/possessor is generally under a duty to use
2 reasonable care to make premises safe for use by social guests and others invited onto the
3 property. Owners and occupiers of land are responsible for preventing injuries to people who
4 enter their property. A landowner/possessor who fails to live up to that duty is liable for injuries
5 that occur as a result.
6

7 26. Plaintiff was an invited guest and was lawfully in or on private property rented and
8 occupied by Defendants. As a result, Defendants are the liable for all physical, emotional, and
9 permanent injuries and damages suffered by Plaintiff for the failure to use reasonable care in
10 supervising the minor children, the ability of the minor children to reach the interior of the pool
11 area and the inability of the minor children to escape the pool area after the accident.
12

13 27. The pool itself was an attractive nuisance under the law and reasonable safeguards
14 were required to prevent access to the pool area, which would naturally attract children.
15

16 28. As a direct and proximate result of Defendants' negligence, common law premises
17 liability and/or other fault, Plaintiff suffered severe pain, emotional trauma, anxiety, permanent
18 injury and scarring, loss of enjoyment of life, forced to incur significant medical expenses and
19 will continue to incur future medical expenses.
20

21 29. As a direct, proximate, and foreseeable result of the negligence of Defendants,
22 Plaintiff suffered physical and emotional injuries, and past and future damages, including
23 physical pain and suffering, inconvenience, loss of enjoyment of life, mental anguish, medical
24 and hospital bills, permanency and/or physical impairment in amounts to be determined at the
25 time of trial.
26
27

SECOND CLAIM FOR RELIEF*(Negligence)*

30. Plaintiff incorporates all other paragraphs as though fully set forth herein.

31. Defendants had a duty to protect their guests from damages and injuries on their property. Defendants specifically assumed such obligation and communicated to Plaintiff's mother that her daughter would be kept safe. Defendants negligently failed to supervise Plaintiff so as to avoid the injury or to aid the Plaintiff promptly after the injury, causing further emotional distress.

32. Defendants' breach of these duties of care caused and resulted in Plaintiff Tatiana Colmenero sustaining serious and permanent personal injuries.

33. Defendants' negligence renders them liable for the injuries inflicted on Plaintiff and the resulting damages.

34. As a direct and proximate result of Defendants' negligence, common law premises liability and/or other fault, Plaintiff suffered severe pain, emotional trauma, anxiety, permanent injury and scarring, loss of enjoyment of life, forced to incur significant medical expenses and will continue to incur future medical expenses.

35. As a direct, proximate, and foreseeable result of the negligence of Defendants, Plaintiff suffered physical and emotional injuries, and past and future damages, including physical pain and suffering, inconvenience, loss of enjoyment of life, mental anguish, medical and hospital bills, permanency and/or physical impairment in amounts to be determined at the time of trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, and each of them, including:

A. For special damages in an amount as found to be fair, reasonable and adequate including, but not limited to, expenses for medical care, therapy, medications, surgery, services, equipment, and any and all other special damages found to be fair, reasonable and necessary by this Court.

B. For general damages in an amount found to be fair and reasonable by this Court at the trial of this case including, but not limited to, the disability, disfigurement, and loss of enjoyment of life suffered by Plaintiff.

C. For such other sums which are reasonable and necessary to fairly and adequately compensate Plaintiff for all past, present, and future special and general damages.

D. For Plaintiff's costs incurred herein.

E. For any such other relief as the Court deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED this 19th day of May, 2022.

MILLER KORY ROWE LLP

By /s/ Jeffrey B. Miller

Jeffrey B. Miller, Esq.
650 North Third Avenue
Phoenix, Arizona 85003
Attorneys for Plaintiff

1 **ORIGINAL** of the foregoing was e-filed
2 this 19th day of May, 2022, with
3 the Maricopa County Superior Court.

4 By: /s/Kathy Anderson
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Defendant(s).

**CERTIFICATE OF
COMPULSORY ARBITRATION**

I certify that I am aware of the dollar limits and any other limitations set forth by the Local Rules of Practice for the Maricopa County Superior Court, and I further certify that this case IS NOT subject to compulsory arbitration, as provided by Rules 72 through 77 of the Arizona Rules of Civil Procedure.

RESPECTFULLY SUBMITTED this

By: Jeffrey B Miller /s/
Plaintiff/Attorney for Plaintiff